

REMARKS

At page 2 of the Office Action, the Examiner continues to reject claims of the subject invention under 35 USC §103 as allegedly anticipated by EP 851,022 (EP '022) to Unilever. The Examiner also continues to reject claims over claims 1-11 of U.S. Patent No. 6,210,600 to Zhou et al. under the judicially created doctrine of double patenting.

With regard to EP '022, applicants argue that the reference fails to disclose the delivery of anti-scaling polymer to a cold, penultimate rinse cycle preceding a heated final rinse cycle. The Examiner responds as follows:

- (1) EP '022 discloses that the "The rinse and composition is designed for use in the final rinse steps [sic step] of the machine dishwashing operation, separately from the detergent composition used in the main wash cycle" (my emphasis) (Examiner cites page 1, lines 11-12 and page 15, lines 19-30); and
- (2) Since Zhou et al discloses the aid is delivered during several rinse cycles ..., the Examiner asserts that Zhou et al. meets the limitations of the claims.

Both these arguments are respectfully traversed for reasons set forth below.

First, applicants note that the statement at page 1, line 11 states that rinse aid is for use in the (singular) final rinse step, not the final rinse steps. Thus, it can not be said that this statement directs or suggests use of aid in a pre-rinse step, let alone that use of the rinse aid in the pre-rinse step versus the final heated rinse step would make a difference (as is taught by the subject invention).

Similarly, page 15, lines 20-30 talk only about preparing a rinse aid composition and subsequently introducing said composition "into a rinse cycle". There is no teaching or suggestion of a distinction between pre-rinse and rinse cycles.

The Examiner also states that Zhou clearly discloses that the rinse aid is delivered during several rinse cycles (point (2) above of Examiner's argument). This is simply not true. Nowhere in the reference is it taught or suggested that rinse aid is delivered during several rinse cycles. As noted, the reference only discloses delivering aid to a rinse cycle and clearly does not indicate that this could or does include the pre-rinse cycle.

As applicants have previously noted and, to the extent this is not clear, all the examples in U.S. Patent No. 6,210,600 (the U.S. equivalent of the EP reference) involve dosage into the final rinse.

In short, there is nothing directing the person of ordinary skill to introduce rinse aid into a cold, pre-rinse step and, if anything, the language and examples teach away. The Examiner is substituting his own knowledge after the fact to guess what might have been obvious (or to indicate an after-the-fact interpretation). However, as the Examiner knows, such hindsight reasoning is prohibited by the patent laws.

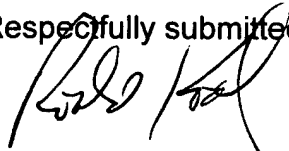
In view of the discussion above, it is respectfully requested the Examiner withdraw rejection of the claims over the EP reference.

With regard to the U.S. reference, while applicants feel the same reasoning applies, in an effort to expedite prosecution, applicants enclose a Terminal Disclaimer terminally disclaiming the problem of the term of the subject application which would expire beyond the expiration date of U.S. Patent No. 6,210,800.

In view of the Terminal Disclaimer, it is respectfully requested the rejection be withdrawn.

If a telephone conference would be of assistance in advancing the prosecution of this application, applicant's undersigned attorney invites the Examiner to telephone him at the number provided.

Respectfully submitted,



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